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Testimony of the Maine Center for Disease Control and Prevention
Department of Health and Human Services

Before the Joint Standing Committee on Health and Human Services

Neither For Nor Against LD 1481, *An Act Regarding Clearance for Occupancy
Under the Lead Poisoning Control Act*

Hearing Date: April 28, 2023

Senator Baldacci, Representative Meyer, and Members of the Joint Standing Committee on Health and Human Services, my name is Karyn Butts and I am the manager of the Childhood Lead Poisoning Prevention Unit within the Department of Health and Human Services, Maine Center for Disease Control and Prevention. I am here today to provide testimony on behalf of the Maine Center for Disease Control and Prevention and will be providing information on LD 1481, *An Act Regarding Clearance for Occupancy Under the Lead Poisoning Control Act*.

LD 1481 authorizes the Department of Health and Human Services to clear for occupancy one unit at a time in an owner-occupied residential building of three dwelling units or less that has been ordered to be cleared of harmful lead-based substances and from which the occupants have been displaced. If enacted, this emergency legislation will be effective immediately.

This bill will change the Lead Poisoning Control Act to exempt owner-occupied dwellings of three units or less that have a Department-issued order to abate lead hazards from the existing statutory prohibition against the rental of any vacant unit while the entire dwelling is under the order to abate lead hazards (22 M.R.S. § 1322). If enacted, the Department will have authority to allow property owners to rent vacant units as they are individually cleared of lead hazards rather than requiring the owner wait for the entire dwelling (i.e., all units, common areas, and exterior areas) to be cleared of lead hazards before renting any vacant units.

If enacted, rules are needed to implement the law in a way that would be protective of public health and ensure tenants would not be inadvertently exposed to lead hazards that remain in areas of a dwelling outside of their individual unit. Hazards that expose children to lead may be found inside individual dwelling units and may also be found in the dwelling's common areas (e.g., porches, entryways, hallways, stairwells, laundry rooms, etc.), on the exterior of the building, or in the soil on property. Rulemaking would be important to ensure individual, vacant units are not rented if hazards remained in areas of the dwelling that could expose a child occupant to lead. Likewise, the Maine CDC would also need to develop new policies, procedures, and documents to be able to implement this amendment.

Within its existing resources, the Maine CDC can manage the review of dwellings and dwelling units that may be eligible for this exemption and to conduct unit-by-unit clearances based on the

expected number of dwellings the bill would potentially impact. We estimate there may be 10 owner-occupied buildings with three units or less in a year with an order to abate lead hazards issued by the Department. For those estimated 10 building owners, if any of the units in their building were vacant or became vacant while the building was under an order to abate lead hazards, under LD 1481, rental income may be collected sooner if the Department allowed units to be rented before the remainder of the units or building were abated of lead hazards. In a year, the bill may also make 10 to 20 units available for rent sooner if the Department allowed vacant units to be rented before the remainder of the building is abated of lead hazards.

Our comments consider the bill, as written, and are based on the understanding that this legislation will not apply to other multi-family dwellings, such as dwellings with more than three units or dwellings that are not owner-occupied. The number of units affected impacts the Department programmatically and fiscally. As noted above, this bill will impact a relatively small number of dwellings and therefore have a minimal impact on Maine CDC workload; however, any amendment or clarification that provisions could apply to all rental properties of three units or less, for example, will have greater impact on workload, exceed existing capacity and require additional resources. In 2022, 70 percent of Maine CDC's childhood lead poisoning cases involving rental units were in buildings of three units or less for a total of 89 dwellings comprised of 151 units.

Maine CDC recommends that the Committee examine the bill language and consider how the proposed legislation fits within the existing statute. LD 1481 contains language around "clearance for occupancy" that is not consistent with other sections of the Lead Poisoning Control Act. There is no existing language in the statute that gives the Department authority to "clear" dwelling units for "occupancy," regardless of the type of dwelling. Owners are restricted from renting a dwelling until it is cleared of lead hazards (22 M.R.S. § 1322). The bill proposes adding a new section that would seem to be in direct conflict with this provision, therefore, we suggest amending the bill to include language in 22 M.R.S. § 1322 that gives the Department authority to waive the restriction on renting a dwelling on a per unit basis for owner-occupied dwellings of three units or less and using language that is consistent with existing language. There is a model for such language in the second paragraph of 22 M.R.S. § 1322 ("The Department may, on a case-by-case basis, waive this requirement if the department determines...").

Thank you for your consideration of this matter and for the opportunity to provide testimony today. I can address questions from the Committee, and I will be available to participate in the work session.